

# Senate Study Bill 1189

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON NATURAL  
RESOURCES AND ENVIRONMENT BILL BY  
CO=CHAIRPERSONS BLACK AND HOUSER)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to a schedule established by the environmental  
2 protection commission for civil penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 2397SC 81  
5 tm/gg/14

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1 1 Section 1. Section 455B.109, subsection 1, Code 2005, is  
1 2 amended to read as follows:  
1 3 1. The commission shall establish, by rule, a schedule or  
1 4 range of civil penalties which may be administratively  
1 5 assessed. The schedule shall provide procedures and criteria  
1 6 for the administrative assessment of penalties ~~of not more~~  
~~1 7 than ten thousand dollars in an amount not to exceed civil~~  
1 8 ~~penalties established in this chapter~~ for violations of this  
1 9 chapter or rules, permits or orders adopted or issued under  
1 10 this chapter. In adopting a schedule or range of penalties  
1 11 and in proposing or assessing a penalty, the commission and  
1 12 director shall consider among other relevant factors the  
1 13 following:  
1 14 a. The costs saved or likely to be saved by noncompliance  
1 15 by the violator.  
1 16 b. The gravity of the violation.  
1 17 c. The degree of culpability of the violator.  
1 18 d. The maximum penalty authorized for that violation under  
1 19 this chapter.  
1 20 PARAGRAPH DIVIDED. Penalties may be administratively  
1 21 assessed only after an opportunity for a contested case  
1 22 hearing which may be combined with a hearing on the merits of  
1 23 the alleged violation. ~~Violations not fitting within the~~  
~~1 24 schedule, or violations~~ which the commission determines should  
1 25 be referred to the attorney general for legal action shall not  
1 26 be governed by the schedule established under this subsection.

### EXPLANATION

1 28 This bill relates to a schedule established by the  
1 29 environmental protection commission for civil penalties.  
1 30 Currently, the environmental protection commission is  
1 31 required to establish a schedule or range of civil penalties  
1 32 of not more than \$10,000 which may be administratively  
1 33 assessed. Currently, if a civil penalty is more than \$10,000,  
1 34 the civil penalty is not administratively assessed.  
1 35 The bill provides that the schedule is to provide  
2 1 procedures and criteria for the administrative assessment of  
2 2 penalties in an amount not to exceed civil penalties  
2 3 established in Code chapter 455B. The bill eliminates a  
2 4 provision providing that violations not within the schedule  
2 5 shall not be governed by the schedule.  
2 6 LSB 2397SC 81  
2 7 tm:rj/gg/14